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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,357	08/01/2003	Daniel L. Poole	3339-PA15	3960
29370	7590	01/31/2005	EXAMINER	
ROBERT A. PARSONS 340 E. PALM LN SUITE 260 PHOENIX, AZ 85004			MEISLIN, DEBRA S	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/632,357	POOLE ET AL. <i>ED</i>
	<b>Examiner</b>	<b>Art Unit</b>
	Debra S Meislin	3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 November 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 9-12 is/are rejected.
- 7) Claim(s) 6-8 and 13-16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/1/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

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1. The restriction requirement has been withdrawn due to the indication of allowable generic claims.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tongue having a leading edge and a slanted leading face slanting back therefrom must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings (e.g., figure 8) are objected to because the structural cooperation between the jaw portion "54" and the jaw element "63" is not clear. In figure 5, "44" should be ---45---. The tongue "62" in figure 8 is not clearly shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The disclosure is objected to because of the following informalities: on page 8, line 16, "section 12" should be ---Section 12---; on page 11, line 9, "32 and 34" should

be ---33 and 36---; on page 11, line 21, "pivot 44" is inconsistent with the drawings; on page 11, line 23, "post 45" is not shown in the drawings.

Appropriate correction is required.

5. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 2, "the second jaw portion" lacks antecedent basis and should be changed to --- the jaw portion---.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reich.

Reich discloses "locking the pivot in position within the channel upon the first section and the second section reaching the gripping position" and "only upon the first section and the second section reaching the gripping position" as broadly claimed by applicant. It is noted that the "gripping position" has not been particularly defined and the device of Reich is additionally capable of performing the intended function as such would be dependent upon the size and shape of the workpiece.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich in view of Daugherty.

Reich discloses all of the claimed subject matter except for having raised ridges having a leading edge and a slanted leading face slanted back therefrom. Daugherty discloses raised ridges having a leading edge and a slanted leading face slanted back therefrom. It would have been obvious to one having ordinary skill in the art to form the ridges of Reich with a leading edge and a slanted leading face slanted back therefrom to aid the tongue to "find" the groove easily as taught by Daugherty.

10. Claims 3-4 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich in view of Liou.

Reich discloses all of the claimed subject matter except for having raised ridges having a leading edge and a slanted leading face slanted back therefrom. Liou discloses raised ridges "28" and a tongue "19" having a leading edge and a slanted leading face slanted back therefrom. It would have been obvious to one having ordinary skill in the art to form the ridges and tongue of Reich with a leading edge and a slanted leading face slanted back therefrom to aid the tongue into engagement with the grooves as taught by Liou.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reich in view of Martinka.

Reich discloses all of the claimed subject matter except for having a biasing assembly which acts on the pivot. Martinka discloses a biasing assembly which acts on a pivot. It would have been obvious to one having ordinary skill in the art to form the device of Reich with a biasing assembly which acts on the pivot to provide for easy adjustment of the jaw spacing as taught by Martinka.

12. Claims 1-4 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liou in view of Daugherty.

Liou discloses all of the claimed subject matter except for having a pivot and slot. Daugherty discloses having a pivot and slot. It would have been obvious to one having ordinary skill in the art to form the device of Liou with a pivot and slot to prevent the lever members from separating as taught by Daugherty.

Liou discloses "locking the pivot in position within the channel upon the first section and the second section reaching the gripping position" and "only upon the first section and the second section reaching the gripping position" as broadly claimed by applicant. It is noted that the "gripping position" has not been particularly defined and the device of Reich is additionally capable of performing the intended function as such would be dependent upon the size and shape of the workpiece.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liou in view of Daugherty as applied above, in further view of Martinka.

Martinka discloses a biasing assembly which acts on a pivot. It would have been obvious to one having ordinary skill in the art to form the device of Liou as modified by

Daugherty with a biasing assembly which acts on the pivot to provide for easy adjustment of the jaw spacing as taught by Martinka.

14. Claims 6-8 and 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin  
Primary Examiner  
Art Unit 3723

January 27, 2005